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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,903	04/16/2004	James F. Nagy	24330-0001-U1	8904

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EXAMINER

SHAFAER, RICKY D

ART UNIT	PAPER NUMBER
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2872

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/825,903

Applicant(s)

NAGY, JAMES F.

Examiner

Ricky D. Shafer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 and 22-46 is/are pending in the application.
- 4a) Of the above claim(s) 11-20 and 22-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41, 42, 45 and 46 is/are rejected.
- 7) ☒ Claim(s) 43 and 44 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Newly submitted claims 22-40 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The newly submitted and elected inventions are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because of the omission of the details that the prismatic device includes a reflective surface being attached to said light dispersing medium, the angle of the reflective surface relative to said window being fixed, a window formed in said light dispersing medium or a single optical window set at a predetermined angle of about 30 degrees, as evidenced by newly submitted claims 22, 28 and 35. The subcombination has separate utility such as a system for creating a spectral displays without at least one light-admitting surface or the light reflecting surface being planar, the angle of at least one light-reflecting surface being adjustable relative to said light-dispersing material, and/or wherein the at least one light-reflecting surface reflects a portion of the dispersed light back out of the prism device through the window (as recited in newly submitted claims 22-27), a first active surface further comprises at least one light-admitting surface, a second active surface further comprises at least one light reflective surface, wherein the angle of at least one light-reflecting surface being changeable relative to the at window and/or wherein the at least one light-reflecting surface reflects a portion of the dispersed light back through the window (as recited in claims 28-34), or at least one light-

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admitting surface, the angle of at least one light-reflecting surface being adjustable relative to the light dispersing medium, wherein the at least one light-reflecting surface reflects a portion of the dispersed light back out of the prismatic device through the window and/or a display surface (as recited in newly submitted claims 35-40) which would require a search in class 359, subclass 832, 872 and 900 which would not be required for the elected invention.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 22-40 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 41, 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beloian ('608) in view of Miller ('334) or Macleish ('899).

Beloian discloses a system comprising at least one prismatic element (14), wherein said prismatic element comprises a substantially solid light dispersing medium of quartz (see column 2, lines 52 to 54); a highly reflective planar surface (22) attached to said light dispersing medium, and a planar window (21) formed in said light dispersing medium at a predetermined angle relative to said reflective surface, and wherein said angle of said reflective surface relative to said window is fixed; and at least one source of light is directed at the window of the at least one prismatic element, wherein the light enters the prismatic element through the window,

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wherein the light-dispersing medium disperses the light into a spectrum and wherein the reflective surface reflects a portion of the dispersed light back out of the prismatic device through the window, note figures 1 to 2 along with the associated description thereof, except for explicitly stating that the source of light is white light.

Miller and Macleish each teach it is well known to use a source of white light for monochromators in the same field of endeavor for the purpose of spatially separating colors.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the time was made to modify the light source of Beloian to include white light, as taught by Miller or Macleish, in order to spatially separate light of different colors within the visible spectrum.

As to the limitations that the window includes a polished surface, it is well known to polish, light incident optical surfaces in the same field of endeavor for the purpose of reducing the scattering of incident light.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the time was made to modify the window of Beloian to include a polished window in order to reduce the amount of surface scattering.

As to the limitations of claim 46, it is well known to manufacture prismatic elements having a triangular shape, wherein said triangular shape is a 30-60-90 degree triangle.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the triangular shaped prism of Beloian to include a typical 30-60-90 degree triangle, as common used and employed in the art, in order to reduce manufacturing costs.

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Moreover, since applicant has not disclosed that the 30-60-90 degree triangle solves any stated problem, it would appear that the invention would perform equally well with the triangular shape illustrated by Beloian. Note: In re Kuhle, 188 USPQ 7.

4. Claims 41, 42 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller ('499).

Miller discloses a system comprising multiple prismatic elements (12, 14), wherein each of said prismatic elements comprises a substantially solid light dispersing medium (see column 1, line 68 to column 2, line 4, column 5, lines 54 to 63 and column 6, lines 18 to 23) of glass (see column 3, lines 63 to 67); a highly reflective planar surface (16, 20) attached to said light dispersing medium, and a planar window (26, 32) formed in said light dispersing medium at a predetermined angle relative to said reflective surface, and wherein said angle of said reflective surface relative to said window is fixed; and at least one source of white light (sun light) is directed at the window of the at least one prismatic element, wherein the white light enters the prismatic element through the window, wherein the light-dispersing medium disperses the white light into a spectrum of colors and wherein the reflective surface reflects a portion of the dispersed light back out of the prismatic device through the window for creating a spectral display, note figures 1, 5, 7, 9 and 10 along with the associated description thereof, except for explicitly stating that the window includes a polished surface.

It is well known to polish, light incident optical surfaces of an window in the same field of endeavor for the purpose of reducing the scattering of incident light.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time the time was made to modify the window of Miller to include a polished window in order to reduce the amount of surface scattering.

5. Claims 43 and 44 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

6. Claims 41-46 are objected to because of the following informalities:

In claim 41, line 11 and claim 46, line 9, the language "white light" should be change to read --the white light--.

In claim 41, line 12 and claim 46, line 10, the language "the spectrum" should be change to read --a spectrum--.

Appropriate correction is required.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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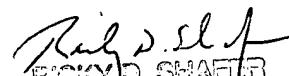
however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RDS

March 04, 2007


RICKY D. SHAFER
PATENT EXAMINER
ART UNIT 2872